

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
New Century Communications Co.	)	File No. EB-02-TS-429
	)	
Operator of Cable Systems in the States of	)	
	)	
Iowa, Minnesota, Wisconsin	)	
	)	
Request for Waiver of Section 11.11(a) of the	)	
Commission's Rules	)	

ORDER

Adopted: October 29, 2002

Released: November 5, 2002

By the Chief, Technical and Public Safety Division, Enforcement Bureau:

1. In this *Order*, we grant New Century Communications Co. ("New Century") temporary, waivers of Section 11.11(a) of the Commission's Rules ("Rules") for 33 cable television systems in the three above-captioned states. Specifically, we grant a temporary, 36-month waiver of Section 11.11(a) for the 33 cable television systems listed in Attachment A. Section 11.11(a) requires cable systems serving fewer than 5,000 subscribers from a headend to either provide national level Emergency Alert System ("EAS") messages on all programmed channels or install EAS equipment and provide a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel by October 1, 2002.<sup>1</sup>

2. The Cable Act of 1992 added new Section 624(g) to the Communications Act of 1934 ("Act"), which requires that cable systems be capable of providing EAS alerts to their subscribers.<sup>2</sup> In 1994, the Commission adopted rules requiring cable systems to participate in EAS.<sup>3</sup> In 1997, the Commission amended the EAS rules to provide financial relief for small cable systems.<sup>4</sup> The

<sup>1</sup> 47 C.F.R. § 11.11(a).

<sup>2</sup> Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 16(b), 106 Stat. 1460, 1490 (1992). Section 624(g) provides that "each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations ...." 47 U.S.C. § 544(g).

<sup>3</sup> *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Report and Order and Further Notice of Proposed Rule Making*, FO Docket Nos. 91-171/91-301, 10 FCC Rcd 1786 (1994) ("*First Report and Order*"), *reconsideration granted in part, denied in part*, 10 FCC Rcd 11494 (1995).

<sup>4</sup> *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Second Report and Order*, FO Docket Nos. 91-171/91-301, 12 FCC Rcd 15503 (1997) ("*Second Report and Order*").

Commission declined to exempt small cable systems from the EAS requirements, concluding that such an exemption would be inconsistent with the statutory mandate of Section 624(g).<sup>5</sup> However, the Commission extended the deadline for cable systems serving fewer than 10,000 subscribers to begin complying with the EAS rules to October 1, 2002, and provided cable systems serving fewer than 5,000 subscribers the option of either providing national level EAS messages on all programmed channels or installing EAS equipment and providing a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel.<sup>6</sup> In addition, the Commission stated that it would grant waivers of the EAS rules to small cable systems on a case-by-case basis upon a showing of financial hardship.<sup>7</sup> The Commission indicated that waiver requests must contain at least the following information: (1) justification for the waiver, with reference to the particular rule sections for which a waiver is sought; (2) information about the financial status of the requesting entity, such as a balance sheet and income statement for the two previous years (audited, if possible); (3) the number of other entities that serve the requesting entity's coverage area and that have or are expected to install EAS equipment; and (4) the likelihood (such as proximity or frequency) of hazardous risks to the requesting entity's audience.<sup>8</sup>

3. On August 20, 2002, New Century filed a request for temporary, 36-month waivers of Section 11.11(a) for 33 small rural cable systems in the three captioned states. New Century states that each of these systems serves between 6 and 301 subscribers. Based on price quotes provided by EAS equipment manufacturers, New Century estimates that it would cost approximately \$330,000 to install EAS equipment at the 33 systems. New Century asserts that this cost will impose a substantial financial hardship on it and provides its financial statements for the year 2001 in support of this assertion. In addition, New Century submits that its subscribers will continue to have ready access to national EAS information from other sources, including its cable systems. In this regard, New Century notes that its subscribers currently have access to national EAS messages on at least 48 percent of all programmed channels. New Century also asserts that its subscribers will have access to EAS information through over-the-air reception of broadcast television and radio stations.

4. Based upon our review of the financial data and other information submitted by New Century, we conclude that temporary, 36-month waivers of Section 11.11(a) for the 33 cable television systems in Attachment A are warranted.<sup>9</sup> In particular, we find that the estimated \$330,000 cost of EAS equipment for the small cable systems could impose a financial hardship on New Century.

5. We note that the Commission recently amended the EAS rules to permit cable systems serving fewer than 5,000 subscribers to install FCC-certified decoder-only units, rather than both encoders and decoders, if such a device becomes available.<sup>10</sup> Based on comments from equipment

---

<sup>5</sup> *Id.* at 15512-13.

<sup>6</sup> *Id.* at 15516-15518.

<sup>7</sup> *Id.* at 15513.

<sup>8</sup> *Id.* at 15513, n. 59.

<sup>9</sup> The waivers will extend 36-months from October 1, 2002, until October 1, 2005. Additionally, we clarify that the waivers we are granting also encompasses the EAS testing and monitoring requirements.

<sup>10</sup> *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System*, EB Docket 01-66, FCC 02-64 at ¶ 71 (released February 26, 2002).

manufacturers, we anticipate that such a decoder-only system could result in significant cost savings to small cable systems.<sup>11</sup>

6. Accordingly, **IT IS ORDERED** that, pursuant to Sections 0.111, 0.204(b) and 0.311 of the Rules,<sup>12</sup> New Century Communications, Co. **IS GRANTED** a waiver of Section 11.11(a) of the Rules until October 1, 2005 for the 33 cable systems listed in Attachment A.

7. **IT IS FURTHER ORDERED** that New Century Communications, Co., place a copy of this waiver in its system files.

8. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to counsel for New Century Communications, Co., Christopher C. Cinnamon, Esq., Cinnamon Mueller, 307 North Michigan Avenue, Suite 1020, Chicago, Illinois 60601.

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Casey  
Chief, Technical and Public Safety Division  
Enforcement Bureau

---

<sup>11</sup> One manufacturer estimated that an EAS decoder-only system can reduce the cost by 64% over what a cable operator would spend for an encoder/decoder unit. *Id.* at ¶ 70.

<sup>12</sup> 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.

## Attachment A

New Century Communications Co.

**Cable Systems:****Temporary Waiver Granted Until:****Iowa**

Delhi, Iowa	October 1, 2005
Hopkinton, Iowa	October 1, 2005
Luxemburg, Iowa	October 1, 2005
Worthington, Iowa	October 1, 2005

**Minnesota**

Canosia, Minnesota	October 1, 2005
Finland, Minnesota	October 1, 2005
French River, Minnesota	October 1, 2005
Knife Lake, Minnesota	October 1, 2005
Knife River, Minnesota	October 1, 2005
Long Lake/Fayal, Minnesota	October 1, 2005
Round Lake, Minnesota	October 1, 2005
Rutledge, Minnesota	October 1, 2005
Schultz, Minnesota	October 1, 2005
Willow River, Minnesota	October 1, 2005
Wrenshall, Minnesota	October 1, 2005

**Wisconsin**

Almond, Wisconsin	October 1, 2005
Bancroft, Wisconsin	October 1, 2005
Briggsville, Wisconsin	October 1, 2005
Dalton, Wisconsin	October 1, 2005
Doylestown, Wisconsin	October 1, 2005
Endeavor, Wisconsin	October 1, 2005
Granton, Wisconsin	October 1, 2005
Kellnersville, Wisconsin	October 1, 2005
Kingston, Wisconsin	October 1, 2005
Milladore, Wisconsin	October 1, 2005
Marquette, Wisconsin	October 1, 2005
Oxford, Wisconsin	October 1, 2005
Packwaukee, Wisconsin	October 1, 2005
Rosholt, Wisconsin	October 1, 2005
Rozellville, Wisconsin	October 1, 2005
Saxeville, Wisconsin	October 1, 2005
Tustin/Bloomfield, Wisconsin	October 1, 2005
Wolf River, Wisconsin	October 1, 2005